

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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KPM ANALYTICS NORTH AMERICA  
CORPORATION,

Plaintiff,

v.

BLUE SUN SCIENTIFIC, LLC; THE INNOVATIVE  
TECHNOLOGIES GROUP & CO., LTD; ARNOLD  
EILERT; MICHELLE GAJEWSKI; ROBERT  
GAJEWSKI; RACHAEL GLENISTER; GREGORY  
ISRAELSON; IRVIN LUCAS; and PHILIP  
OSSOWSKI,

Defendants.

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Civil Action No. 4:21-cv-10572-MRG

**MOTION FOR LEAVE TO EXCUSE IN-PERSON ATTENDANCE OF  
RACHAEL GLENISTER AND ARNOLD EILERT AT FEBRUARY 28, 2024 HEARING**

Defendants Arnold Eilert and Rachael Glenister respectfully request leave to be excused from in-person attendance at the February 28, 2024 hearing on Plaintiff's motion for leave to file its supplemental brief in further support of its motion for a permanent injunction and its motion for entry of judgment in its favor on Chapter 93A. For the reasons stated below, requiring Ms. Glenister and Mr. Eilert to travel a substantial distance to attend the hearing would be overly burdensome, and ultimately unnecessary, given their lack of knowledge of the allegations contained in Plaintiff's supplemental brief and affidavit.

On November 10, 2023, Plaintiff filed its motion for leave to supplement its previous briefs in support of its motion for a permanent injunction and entry of judgment on its claim under Chapter 93A. (ECF No. 280). The motion attached the supplemental brief Plaintiff was requesting leave to file, which also contained a new declaration from Plaintiff's Chief Commercial Officer, Yuegang Zhao. (ECF No. 281). The Defendants filed their joint opposition to the motion on

November 24, 2023. (ECF No. 282). On January 9, 2024, the Court issued a notice setting Plaintiff's motion down for a hearing on February 8, 2024. (ECF No. 285). The Court's notice "orders that all named parties be in attendance at this hearing." (*Id.*) The Court subsequently granted the parties' joint motion to continue the hearing and rescheduled the hearing for February 28, 2024. (ECF No. 286).

Ms. Glenister gave birth to her first child on January 20, 2024 and will be on maternity leave until April 22, 2024. (Affidavit of Rachael Glenister, ¶¶ 1-2). She has not been cleared to travel post-partum and she is exclusively breastfeeding her child, who has not received the recommended vaccinations prior to air travel. (*Id.*, ¶ 3). Requiring Ms. Glenister to travel to Massachusetts from her home in Colorado to attend the February 28 hearing in person would therefore be unduly burdensome on her and her family, particularly in light of her complete lack of knowledge regarding the allegations contained in Plaintiff's supplemental brief and/or Mr. Zhao's affidavit. (*Id.*, ¶¶ 4-5).

Likewise, Mr. Eilert has no knowledge of Plaintiff's allegations. He has not performed *any* preventative maintenance services on behalf of Blue Sun or any of its affiliates since July 9, 2021—nearly two years before Plaintiff alleges that Caltest provided preventative maintenance services to Omega Protein. (Affidavit of Arnold Eilert, ¶ 2). In fact, Mr. Eilert has never performed preventative maintenance services on behalf of Caltest. (*Id.*). Requiring Mr. Eilert to travel to Massachusetts from his home in Illinois would therefore be unduly burdensome and provide no benefit to the Court, as he also has no personal knowledge of the allegations contained in Plaintiff's supplemental brief and/or Mr. Zhao's affidavit. (*Id.*, ¶¶ 4-6).

To the extent the Court needs Ms. Glenister and/or Mr. Eilert to be available during the February 28 hearing, both can be available via video or telephone.

Respectfully submitted,

ARNOLD EILERT and RACHAEL  
GLENISTER,

By their attorneys,

/s/ Dallin R. Wilson

William L. Prickett (BBO #555341)

wprickett@seyfarth.com

Dallin R. Wilson (BBO #676662)

drwilson@seyfarth.com

SEYFARTH SHAW LLP

Two Seaport Lane, Suite 1200

Boston, MA 02210-2028

Tel: (617) 946-4800

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

I certify that, pursuant to Local Rule 7.1(a)(2), I conferred with Plaintiff's counsel prior to filing this motion in an attempt to resolve or narrow the issue. At the time of the conference, Plaintiff did not have a position with respect to the relief requested in this motion.

/s/ Dallin R. Wilson

Dallin R. Wilson

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 15, 2024.

/s/ Dallin R. Wilson

Dallin R. Wilson